

Sales of newspapers and magazines are not subject to Retailers' Occupation Tax when the publication is issued periodically and published at least twice a year. See 86 Ill. Adm. Code 130.2105. (This is a GIL.)

November 7, 2005

Dear Xxxxx:

This letter is in response to your letter dated July 8, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am asking you for information regarding SALES TAX COLLECTION AND PAYMENT. As I understand, the federal IRS does answer questions through revenue rulings. Thus, I am requesting that you answer my question as I have no intention of violating sales tax collection and reporting laws.

Briefly, I plan upon locating a business in Illinois, which will be incorporated in Illinois, which will have as its purpose the sales of a publication that is designed to instruct the reader regarding a financial product. For that the client will be charged for the publication. There may be subsequent e-mail updates [sic] or information for which there will be no charge. Subsequently, there will be a related software package that will be sold in relation to the publication, for which the client will have a choice of purchasing the publication only, or the publication and the software.

The questions are has any of the above created any sales tax reporting activity? Is the publication taxable upon sales only to an Illinois resident (from us as an Illinois corporation)? And is not taxable if put into interstate commerce, that is, we as an Illinois corporation sell to an out of state or out of country party? Is a publication taxable? Is software taxable? And is any subsequent information we do not charge for subject to sales tax?

I sincerely appreciate your assistance by responding to this. In your reply, please forward any applicable literature, statute sections, and anything else that may apply.

DEPARTMENT'S RESPONSE:

We apologize for the delay in responding to your letter. You have inquired concerning the Retailers' Occupation and Use Tax consequences of selling publications in Illinois. For your guidance on this matter, please see the enclosed rule entitled "Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers". 86 Ill. Adm. Code 130.2105. Please note that, while sales of many publications are exempt from Retailers' Occupation and Use Tax as a result of the newsprint and ink exemption, this exemption does not extend to the transfer of news by CD-Rom discs.

You have also inquired about sales to out-of-state residents. Please see the enclosed rule entitled "Sales of Property Originating in Illinois." 86 Ill. Adm. Code 130.605.

Finally, you have inquired about sales of software. The sale at retail, or transfer, of "canned software" intended for general or repeated use is taxable. Please see the enclosed rule entitled "Computer Software." 86 Ill. Adm. Code 130.1935. No tax is imposed on e-mails. If canned software is transferred in the e-mail, the transfer of the canned software is taxable.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

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